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In The

SUPREME COURT OF THE UNITED STATES

James D. Schneller,

Petitioner

v.

Prospect Park Nursing and Rehabilitation Center, Marjorie Zitomer; Richard Schneller; T. Sergeant Pepper, Esquire

Respondents

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A. Whether time to file the notice of appeal was tolled by filing of a motion for leave to reply to responses to motion for amendment or reconsideration of a concluding order, and a motion for sanctions for false pleading in the proceeding culminating in pleadings responsive to the motion for amendment or reconsideration.

B. Resolution of errors of law, and reversal, are requested, of a Circuit Court's affirming of denial of an urgent motion to reply to responses to a motion for amendment or reconsideration of a concluding order, and affirming of denial of a motion for sanctions for false pleading in the proceedings culminating at the time of the motion for amendment or reconsideration.

C. Whether a trust estate beneficiary, trustee ad litem, co-contractee, and additionally qualified offspring of a deceased may litigate torts on behalf of the deceased, that were experienced together with the deceased, pursuant to existing authorities, which do not delineate the specific circumstances present in this case.

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To the Justices of the Supreme Court:

Petitioner James D. Schneller, representing himself, on behalf of all plaintiffs and the issues affecting them, requests a writ of certiorari to the Third Circuit Court of Appeals, and relief in the alternative, stating as follows :

I. JURISDICTION

This petition is taken from a decision of a United States Circuit Court of Appeals. The date on which the United States Third Circuit Court of Appeals decided this case was March 8, 2010. The order denying rehearing of the decision was entered on April 12, 2010.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1)

Petitioner has raised his objections and arguments in regard to the issues presented in this petition, in the proceedings below. Petitioner raised all issues including the within questions, in

the pleadings which he presented to the trial Court, making certain to preserve any issues, due to lack of hearing and failure of the defendants to address many of the issues in plaintiff's pleadings. Each issue in these proceedings was responded to by respondents or was afforded an opportunity for response by respondents.

II. OPINIONS BELOW

The United States Court of Appeals for the Third Circuit decided this case in an order, dated March 8, 2010.

The District Court for Eastern Pennsylvania decided this case in an memorandum and order entered June 26, 2009

III. STATEMENT OF THE CASE

Son-caregiver, plaintiff ("petitioner"), wrongful death beneficiaries, and the estates of the deceased, filed a complaint alleging deprivals, and conspiracies to deprive, civil rights, violations of Assisted Suicide Funding Restriction Act and other

statutes, intentional torts, and wrongful death, with motion for leave to proceed in forma pauperis. The motion for leave to proceed in forma pauperis was denied in a memorandum and order dismissing the case for lack of federal question jurisdiction. Plaintiff appealed and the Third Circuit dismissed the appeal pursuant to 28 U.S.C. §1915(e)(2)(b). Plaintiff petitioned for a writ of certiorari to the Court, and then, as plaintiff had been successful in paying the fee for two unrelated but procedurally similar cases, re-filed the complaint with the filing fee, naming the non-diverse parties as potential defendants and serving them, as all, for the duration. The complaint was filed within the allowable time, and contained a general claim for jurisdiction, pursuant the Pennsylvania savings statute, 42 Pa. C.S. § 5535,. Motions to dismiss were filed by the defendants including for lack of jurisdiction, absence of private right(s) of action, and the statute of limitations. The order granting the motions to dismiss ("concluding Order"), was entered on June 26, 2009. Plaintiffs filed a timely motion for amendment and reconsideration, and then, claiming surprise, and overt falsity by the defendants, filed a motion to supplement the record, attaching a proposed reply to responses to the motion for reconsideration, and a requested motion to amend to add declaratory action, and also filed a motion for sanction and for costs

pursuant to 28 USC §1927 and F.R.C.P. 11, claiming that false and misleading claims in said responses, mirrored similar error, in volume, in all of the pleadings, so that sanction, as well as reconsideration (requesting thus an additional "reconsideration" or opening of judgment, for further deliberation) were amply warranted, in the interests of fairness and full adjudication, especially in light of the express error claimed to exist in the concluding decisions appealed from.

The District Court denied the motion to supplement the record and motion for sanction in orders entered on September 4 and September 9, 2009, respectively. Petitioner filed a motion for leave to appeal in forma pauperis which was granted and then, unsure of which clerk might further process the matter as a bona fide appeal, petitioner filed a notice of appeal with the Third Circuit Court of Appeals.

The Third Circuit clerk and Legal Division forwarded the appeal to the Circuit Court for a determination as to whether jurisdiction was proper, and plaintiffs filed a statement in support of jurisdiction claiming reasons that are generally stated in this petition. A panel entered an order on March 8, 2010, dismissing the appeal from the concluding order and the motion to supplement the record for lack of jurisdiction and affirming the

denial of the motion for sanctions. Petitioner filed a motion pursuant to F.R.A.P. 35 and F.R.A.P. 40, for rehearing en banc, requesting in the alternative, due to extraordinary circumstances constituting good cause, leave to file appeal out of time pursuant to F.R.A.P. 4 (A)(5). The motion was denied in an Order docketed at April 2, 2010.

IV. MOTION FOR CONSOLIDATION AND FOR DEFERRAL

Petitioner requests or suggests consolidation of this petition with a concurrent petition filed 11 days ago. That petition contains this same request and a request for deferral pending this action, pursuant to Supreme Court Rules 13.5, 15.3, 25.4, and 30.4, and F.R.A.P. 3(b)(2), F.R.A.P. 28(i), and F.R.A.P. 26 (b).

Each legal issue raised in this petition is also at issue in said petition for writ of certiorari, taken from a decision by the Third Circuit in appeal 09-4577 (Schneller v. Fox Subacute at Clara Burke) which, in order to be timely, was filed with the clerk on July 1, 2010.

Petitioner requests the Courts' attention to the fact that he has more fully argued the legal discussions, in this petition, and that this therefore might be permitted incorporation into the first-filed petition.

V. REASONS WHY CERTIORARI SHOULD BE GRANTED

The Third Circuit has decided in an overtly erroneous manner. The panel decisions are contrary to decisions of other panels of the United States Court of Appeals for the Third Circuit and this Court. This dismissal/affirmance, and the underlying appeal deprived of a full review, involve questions of public and legal importance.

A. Whether time to file the notice of appeal was tolled by filing of a motion for leave to reply to responses to motion for amendment or reconsideration of a concluding order, and a motion for sanctions for false pleading in the proceeding culminating in pleadings responsive to the motion for amendment or

reconsideration.

374) In the jurisdictional aspect, the Third Circuit has dismissed in a decision denying any tolling of the time for appeal or accrual of time for appeal at a later point in time, by way of motions seeking findings of overt falsity in pleadings, both before and after the order designated as final order, including in response to a motion for rehearing, amendment, or reconsideration, that was denied quickly, in a surprise to plaintiff. Plaintiffs requested to "supplement the record" because they would have filed the reply as a request and moreso they sought to file a motion to amend to add counts for declaratory action and injunctive relief regarding ongoing wrongful and illegal acts and violations of law in both state bureaus and in private industry.

The Third Circuit decides in conflict with basic principles of fairness and justness, as abundantly propounded in the published law, by disallowing the claim for tolling, i.e. finality being present only upon the deciding of all pending motions, because the claim is well-founded, and deals with the most abhorrent of acts : perjury. Perjury, in fact, is not a reason as of course for

filing of civil cases, nor for filing new cases or collateral attacks, so plaintiffs had a clear right to urgently raise it in the body of the entire subject matter, as they diligently attempted. Remand for evidence was warranted.

Plaintiffs have claimed that the final orders entered, under the circumstances, are the orders denying the motion for sanction and the motion to supplement the record, pursuant to claims including that new evidence of outright falsity in the pleadings, as well as the absence of any "with prejudice" in the order claimed to dismiss, and along with the "merger rule," which provides that interlocutory orders issued before a final judgment are reviewable at the same time as the final judgment. Plaintiffs also alternatively requested the Third Circuit for ex post facto extension of time to file notice of appeal.

Plaintiffs named all three orders in their notice of appeal. Plaintiffs during this time would be justified in filing a motion to file an amended complaint, but didn't include this aspect in the motion to amend, because it was clear that the District Court was very likely to be adamant about the closed aspect of the case, and had acted so at similar prior instances.

Plaintiffs, noting the falseness in responses to the motion "for amendment and reconsideration,"

first filed the motion to supplement, in which, pleading surprise at the rapidity of action on motions for amendment, rehearing, or vacating, they raised among all the fact that pleadings in this case contained "substantial unfounded and/or inordinate claims and argument" by defendants. Plaintiffs' proposed reply, attached thereto, then addressed this issue and raised written demands served on defendants by plaintiffs, demanding correction of falsity in their pleadings.

Plaintiffs, as is required in state law, sent "safe harbor" demands for amendment or retraction of the pleadings claimed to be false. This is why there was a delay between the motion to supplement the record, and the motion to sanction. Prior to Court action, plaintiffs filed the motions for sanction, raising in greater detail defendants' false claims and false conclusions of law.

The Third Circuit was requested to find for plaintiffs' claim that there was a continuum between the post-decision pleadings that warranted a deciding together, which they in fact were, and moreso, that the District Court decided the motions for amendment or vacating, prior to the fair and usual amount of time, that being the 20 days permitted to parties to request leave to amend a pleading. This caused the motion to

supplement, and subsequent motion to sanction (which was filed within 30 days of the motions to supplement) to be timely and diligent.

The facts of record exhibit clearly an intent by plaintiffs to initiate, for the District Court's adjudication, a proceeding on vacating or amending, based on a claim of substantial falsity in the pleadings. This is a proceeding on new evidence and plaintiffs had a right to raise it in a post-judgment proceeding under the Rules. The motion for sanction was a further means to this end which specified specific instances and caused a prima facie evidence before the trial Court as well as placing much of the burden on the defendants. Besides constituting new evidence, the matter was also, involving perjury and refusal to discover in the underlying proceeding, extraordinary in it's unlawfulness, and egregiously disrespecting to the Courts and the parties.

The Third Circuit in affirming has decided contrary to standing law. The concluding order neither ended the litigation nor left the court only to execute its judgment. Cunningham v. Hamilton County, 527 U.S. 198, 119 S.Ct. 1915, 144 L.Ed.2d 184 (1999). It was not "on the merits" as per the Third Circuit's citing of Budinich v Becton Dickinson & Co,. 486 U.S. 196, (1988) , for reasons including substantial gaps where the District Court

simply tried to spread the arguable dismissals around to all parties and all claims and then summarily declared the State claims untimely and/or predominant. Moreso the merits have not been decided because jurisdiction has been found absent. In re: Orthopedic "Bone Screw" Products Liability Litigation), 132 F.3d 152, 155 (3d Cir. 1997) see Korvettes, Inc. v. Brous, 617 F.2d 1021, 1024 (3d Cir. 1980) ("A dismissal for lack of jurisdiction is plainly not a determination of the merits of a claim. Ordinarily, such a dismissal is 'without prejudice.' "

A sanctions order is not always an order separate from the action it stems from. Mr. Justice Thomas has written for the unanimous Court, that "appellate review of a sanctions order [cannot] remain completely separate from the merits." Cunningham at 205, 119 S.Ct. 1915. A Rule 37(a) sanctions order will frequently be "inextricably intertwined with the merits of the action." The Third Circuit embraced the application of Cunningham, holding in Comuso v. Nat'l R.R. Passenger Corp., 267 F.3d 331, 338-39 (3d Cir.2001),(Cunningham applied to sanctions imposed under a district court's inherent powers for conduct that occurred outside the court . . earlier Third Circuit decisions allowing counsel to appeal sanctions immediately "are no longer good

law to the extent that they conflict with Cunningham." Id. at 339.

Petitioner also asks relevance of the forma pauperis aspect to this question of what order constituted the final order. Plaintiff not only granted forma pauperis for appeal, but has now been granted forma pauperis for the purposes of obtaining a certified transcript so that he may lawfully file the transcript in the State Court, so as to file the case there.

Plaintiff has not only relied on Pennsylvania state law regarding finality, but has also relied on all Pennsylvania Court's emphasis on economy and efficiency, and where he is impoverished, and believed he diligently prevented multiplicity of appeal, and moreso, where multiplicity of suit and appeal is a charge which is now continually and falsely leveled at plaintiff, and where plaintiff had even more reason to believe that the circumstances as a whole supported finality only of the last order or at worst the order denying leave to supplement the record.

In regard to the request to "open" the reconsideration due to surprise and express perjury, a Court has the power to revisit prior decisions of it's own or of a coordinate court in any circumstance, although as a rule courts should be loathe to do so in the absence of extraordinary

circumstances such as where the initial decision was 'clearly erroneous and would work a manifest injustice.' Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 817, 108 S.Ct. 2166, 100 L.Ed.2d 811 (1988) (quoting Arizona v. California, 460 U.S. 605, 618 n. 8, 103 S.Ct. 1382, 75 L.Ed.2d 318 (1983)). In other words, the law of the case doctrine does not limit a federal court's power, rather it directs its exercise of discretion. Public Interest Research Group of New Jersey, Inc. v. Magnesium Elektron, Inc., 123 F.3d 111, 116 (3d Cir.1997).

Plaintiffs might have sought sanctions earlier in the proceedings, but, besides being numbed by a continuous leveling of exaggeration and falsity at them, there is little support for any claim that a motion for sanctions would have been granted, or would have deterred additional falsity. Defendants have enjoyed such results in motions for sanction in the state court action and have then proceeded to continue their malfeasance right through subsequent appeals. Plaintiffs, however, seeing the same bald malfeasance appear during a reconsideration action, thought it advisable to prosecute this claim at once while the case remained in the trial Court. Plaintiffs believe that the falsity of the defendants was apparent to the trial Court during the proceedings.

Plaintiffs claim additional conflict with law and misapprehension of fact, because Rule 4 states, in regard to post-trial motions, that "the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:" F.R.A.P. 4 Plaintiffs validly filed a post-trial motion and it's related co-motions and thus appeal was most properly and efficiently filed from the last-decided motion. The Third Circuit has affirmed too swordlike a decision, so that both Courts discount well-known principles of finality, efficiency and fairness. There is no law that dictates that an Order once final cannot become a step in the progression to a new final order.

Petitioner can find no decision negativing to plaintiffs' claim that an order appealed from may subsequently become secondary to a new final order or orders, due to a cases' specific circumstances. There is no rule against a party working within the procedural confines in order to bring out a new aspect of the case, especially a newly discovered or newly heightened one.

Dismissal of Complaint and Denial of Rehearing Has Been Upheld or Allowed to Improperly Affect The Issue of Tolling

Petitioner refers to and incorporates the section

by this title in the concurrent petition from Third Circuit No. 09-4577. The Third Circuit has decided contrary to standing law if it has affirmed in any sense other than the affirming of the denial of sanctions. Moreso the error in the decision and opinion warrant an exercise of the Court's authority.

The findings in the opinions exhibit great error and the debilitating effect on the case by the findings of the District Court. For instance on page 9 the Third Circuit finds that objections to misuse of the advance health directive were made solely by James D. Schneller yet objections by the victim Marjorie Schneller, and moreso, concealment of said misuse, were stark foundational fact in this case. Likewise on page 15 of it's opinion (as also occurs in the concurrent case) the District Court misstates the filing dates of the second-filed complaints, which, besides being irrelevant due to the continuum caused by reversal and/or State savings statute, is misstatement with knowledge that the cases were filed within the four year statute of limitations, measured from date of death, in the first place .

Likewise, as another example, the District Court's refusal to exercise supplemental jurisdiction is stated in one sentence at the

concluding paragraph. This is in conflict with the requirement in Sparks v. Hershey, 661 F.2d 30, 33 (3d Cir. 1981), that a Court articulate its reasons for doing so, and so is an abuse of discretion

For all of the above reasons, petitioner requests that the writ be granted, or in the alternative, reversal or vacating with instructions.

B. Resolution of Errors Of Law and Reversal are Requested, of a Circuit Court's Affirming of Denial of A Motion For Sanctions For False Pleading In The Proceeding Culminating At The Time Of The Motion For Amendment Or Reconsideration.

Again, as claimed in the preceding section, abuse of discretion has been inflicted on this fully triable case. This is supported by errors in law, misapprehension of fact, and failure to address many issues of law and fact.

Motion To Supplement the Record

In this case the order denying the motion for sanctions was inexplicably entered 5 days after denial of motion to supplement the record, so the motion to supplement (which had attached the motion to add declaratory action) has been declared beyond the Circuit Court's jurisdiction.

The motion to supplement, which sought leave to respond to responses to the rehearing request, was greatly warranted because it was new evidence and was evidence of perjury present in the proceedings right up to that time. Defendants cannot be permitted to swing the record with mistruths in the closing chapters of a pretrial controversy.

It is noteworthy that plaintiff correctly presented the response as a motion for leave to file. Also, the Third Circuit found that a 20 day period for amendment of a pleading does not, due to definition of a "pleading," pertain to motions for reconsideration, but ignored petitioner's claim that all prior post-dismissal motions had taken considerably longer periods of time, which in fact

supports a finding of partiality, where haste indicated a discernible effort to prevent further objections by a party. Plaintiffs' allegations of perjury exceed the threshold for discretionary adjudication and did in fact gain the ear of the District Court, which awaited the motion for sanctions predicted in the prior pleading.

The appeal in reality offers a strong instance of multiple error causing manifest injustice.

Plaintiffs therefore respectfully request amendment or vacating of the finding of insufficiency of the motion for amendment and reconsideration, and such action deemed worthy, including leave to amend the motion for amendment or reconsideration and/or the reply to responses to said motion.

The Motion for Sanctions

We normally review the District Court's award of costs and sanctions for abuse of discretion, but if the procedure the court employs in imposing sanctions raises due process concerns, our review is

plenary. See Martin v. Brown, 63 F.3d 1252, 1262 (3d Cir. 1995) .

The Third Circuit has affirmed denial of a motion for sanctions filed in regard to persistent falseness in the pleadings. Abuse of discretion has taken place, notably, by way of the Third Circuit's finding that such was a matter for appeal, not a post trial motion, and that perjurious circumstances a) do not equate with an improper purpose or a misleading of a Court, and b) do not constitute new evidence under the rules regarding rehearing, amendment, and reconsideration.

The Third Circuit has relied on a finding that the matter of the motion for sanctions was a matter for appeal, yet, as a pleading filed in conjunction with a post-trial motion for amending or vacating pursuant to new evidence, coupled with a motion for costs or sanctions, appeal would not have been possible, or would have resulted in remand, since the evidence needed elaboration, as is now requested herein. Thus the very reason for urgently and diligently bringing the issue to the district Court's attention is now precluded review by the Third Circuit's designation of the issue as non-jurisdictional both in timeliness (which diligence and subject matter are believed to have prevented) and now also in subject matter per se, despite it's standing as new evidence or, at the

least, partially new evidence supporting a valid claim of perjury.

Plaintiffs' motion, while it referred to 28 USC §1927 and Rule 11 motion, contained far less emphasis on the Rule 11 motion. Plaintiffs would also claim that it is in it's essence a request for the Court's inherent power. Fink v. Gomez, 239 F.3d 989 (9th Cir. 2001).

It requested, by conjunction with the motion to supplement and motion for opening of reconsideration, adjudication of a stark issue of misrepresentation to the Courts that was ultimately not expressly challenged until after the order deemed final. The trial Court has addressed the motion for sanctions in the decision and affirmed it. Plaintiffs at each Court requested evidentiary proceedings on the claims of falseness.

The Third Circuit has also found that plaintiff "did not supply any basis from which the District Court" could conclude that statements were made "for an improper purpose" such as "misleading the Court", yet this is exactly what plaintiff has stated, and he has claimed falseness made for this express purpose. Fink

The Third Circuit makes the above statement regarding the motion for sanctions and the motions for reconsideration and to supplement. However,

the motion to supplement the record (with proposed reply and motion to add counts attached) was the pleading that drew in the claim of falseness, subsequently addressed in greater detail in the motion for sanctions, into the proceeding, and it did so expressly, thus formally causing the continuum of major issues (present to any observer regardless) which causes the deciding of these to be the final order.

The Third Circuit was also requested to amend the conclusion that appeal, as opposed to a motion for sanctions, was the place to address the new evidence of falsity in the pleadings. These pleadings, as an inter-referenced set of pleadings, clearly addressed a strong claim of falsity in the District Court, that was raised in a very diligent manner as soon as it became evident. Plaintiffs, if waiting for appeal to address the perjurious nature of the proceedings below, stood the risk of seeing the issue waived or at the least having it diminished in importance, or for untimeliness.

While de novo review was feasible, it would be inappropriate for the Third Circuit to make factual determinations based upon conflicting evidence. Conflicting evidence is exactly what has resulted from the filing of the motion for sanctions and the motion.

Petitioner therefore requests review, reversal

or remand with instructions that the District Court hold an evidentiary hearing, as had loomed more and more necessary for the duration of the proceedings.

C. Whether a trust estate beneficiary, trustee ad litem, co-contractee, and additionally qualified son of the deceased may litigate torts on behalf of the deceased, that were experienced together with the deceased, pursuant to existing authorities, which do not delineate the specific circumstances present in this case.

The Third Circuit has stated in a footnote on page 2 of the opinion that James Schneller may not represent any other plaintiffs pro se, referring to their similar finding in a prior non precedental opinion appeal in this case. No party nor a Court may cite a non-precedental opinion nor a footnote therein. The original finding stated in the footnote was also a footnote, and was a sua sponte legal conclusion. The Circuit Court has, at the least, erroneously allowed itself to be prejudiced by plaintiff's efforts to represent the deceased

It is plaintiff's contention that the raising of this issue sua sponte exhibits prejudice and error of

law, and in fact the conclusion of law is markedly reversible error.

The finding that as a non-attorney, James D. Schneller may not appear as an attorney for any other parties, is opposable with sound argument. This is true both as to James's capacities on behalf of an estate, and regarding suing on behalf of the Pa.R.C.P. 2202 "parties entitled to relief" under the Pennsylvania wrongful death statute. 42 Pa.C.S.§§ 8301, 8302. Each of these may constitute a legal question of first impression. The authority stated, Osei-Afriyie v. Medical College of Pa., 937 F.2d 876, 882 (3d Cir. 1991), holds only that a non-attorney parent could not represent his children in a tort action in federal court." In relevant decision Collinsgru v. Palmyra Board of Education, 161 F.3d 225 (3d Cir., 1998), the Third Circuit found that parents could not represent their son pro se in an action under the "Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (1994 & Supp. 1997) These are limited to the parent-representing-child situation, which is far different from the within circumstance of adult child, who shared the harms.

In the decision Pridgen v. Anderson, 113 F.3d 391 (2d Cir. 1997), the Second Circuit has held that "an administratrix or executrix of an estate may not proceed pro se when the estate has beneficiaries and creditors other than the litigant. James Schneller, however, besides holding the

capacities stated in the first paragraph, is the last remaining living beneficiary of the two parental trusts, and the estates are closed according to the defendants Schneller and Zitomer, who domineered the estates. Any award in this litigation is certain to be requested to be unavailable to those, who are the only other feasible beneficiaries, under the Pennsylvania Slayer's Act 20 Pa.C.S.§8801. Moreso, the continuing trusts benefit only plaintiff, and plaintiff may lawfully represent the honor and the integrity of the trusts in their overall substance, especially since the sole trustee, First National Bank of Chester County, has repeatedly declined to do so. The deeds of trust in fact continue support for the other living spouse, on into that for James Schneller, causing to petitioner a right to defend the principal and litigate infractions inflicted on the principal (and the trustors) at any time, notably, at times of great mishap to some of the beneficiaries, survived now only by James.[1]

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[1] Plaintiff argued numerous reasons for capacity to sue, and one of which, the right to sue as co-contractee with the deceased for medical and legal services, enables capacity (and therefore a right to represent pro se) as the real party in interest. Pa R.C.P. 2002 ("a person with whom or in whose name a contract has been made for the benefit of another.")

The extraordinary circumstances of this case, including obstruction, ineffective prior counsel, oppression, and intent to ruin the case in the eyes of prospective counsel, are not present in any published decision deciding the claimed doctrine of forbiddance of prosecution by pro se litigants.

Petitioner therefore would argue on granting of the writ that this finding be reversed and that the bias it has inflicted on the appeal support reversal and remand.

VI. CONCLUSION

Petitioner has not made his full arguments in this petition but has sought to overcome any perception of the petition as inadequate, through volume. The case after all contains a volume of claims, and has experienced a volume of error. This case deals with outright deprivals of civil rights including the very rights to live, to defend life, to speak, to eat, to breathe, and to seek urgent medical care, outrageously deprived to a plaintiff.

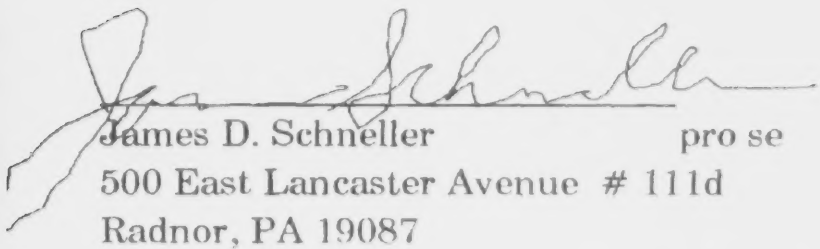
The Third Circuit, plaintiffs' last resort, has decided in a way that conflicts with the United States Constitution and with decisions of Circuit Courts, and this Court. The case is not worthy of dismissal.

There is, in the contested Orders, a furthering of deprival of access to justice, remedy for injury, and deprival of property to plaintiffs, in derogation of the United States Constitution. Injustice is apparent. To perform its high function in the best way, justice must satisfy the appearance of justice. In re Murchison, 75 S.Ct. 623 (U.S.Mich.,1955) Access to the courts encompasses all the means a defendant or petitioner might require to get a fair hearing from the judiciary on all the charges brought against him or grievances alleged by him. Com. ex rel. Matherly v. Frame, 21 Chest. 283 (Pa.Com.Pl.,1973) Abuse occurs where actions are taken that are intentional or "motivated by bias, bad faith, or partisan or personal motives unrelated to the merits of the matter before it." Rogers v. Bucks County Domestic Relations Section, 959 F.2d 1268, 1277 (3d Cir.1992).

Petitioner, for the above reasons, respectfully requests an order granting certiorari over this case, and review of the orders entered in the Court of Appeals, so that a fair and just determination may be made.

Petitioner has requested in the opening section that consolidation be considered and that deferral of the substance of the argument be permitted or that the Court await a nearly identical petition for writ of certiorari due in the Court in ten (10) days time.

Petitioner, in the alternative, requests that the Court vacate the order of the 3d Circuit dismissing the appeal No. 09-4372, and affirming denial of the motion for sanctions, based on the error of these decisions that is clear in the record as stated in this petition.



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Date: July 11, 2010 .

VIII. TEXTS OF PERTINENT STATUTES

Petitioner requests alleviation of the requirement to attached texts of pertinent statutes because no statute rises to the level of importance that would cause a need for highlighting it.